

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )  
4 ) MUR 7073  
5 Alexander Meluskey )  
6 Meluskey for U.S. Senate, Inc. and Julianne Ryan )  
7 in her official capacity as treasurer )  
8

9 **SECOND GENERAL COUNSEL'S REPORT**

10 **I. ACTIONS RECOMMENDED**

11 We recommend that the Commission: (1) enter into pre-probable cause conciliation with  
12 Meluskey for U.S. Senate, Inc. and Julianne Ryan in her official capacity as treasurer (the  
13 "Committee") and Alexander Meluskey; (2) approve the attached joint conciliation agreement;  
14 and (3) approve the appropriate letter.

15 **II. BACKGROUND**

16 The Commission previously found reason to believe that Meluskey violated 52 U.S.C.  
17 § 30102(e)(1) because he became a candidate for U.S. Senate on February 10, 2015, but he did  
18 not file a Statement of Candidacy until May 27, 2015.<sup>1</sup> The Commission also found reason to  
19 believe that the Committee violated 52 U.S.C. § 30104(b) by failing to disclose in-kind  
20 contributions made in connection with "The Alex Meluskey Show," and violated 52 U.S.C.  
21 § 30120(a) by failing to include required disclaimers in radio broadcasts of the show that  
22 solicited contributions and contained express advocacy.<sup>2</sup> The Commission commenced an  
23 investigation to determine: (1) the source of the funds used to pay for Meluskey's radio show;

<sup>1</sup> Commission Certification ¶ 5a (Dec. 12, 2017); Factual & Legal Analysis at 3 & n.9.

<sup>2</sup> Commission Certification ¶ 5c; Factual & Legal Analysis at 11-12. The Commission also found no reason to believe that the Committee violated 52 U.S.C. § 30104(b)(5)(A) or (6)(A) by failing to disclose disbursements for printing expenses. Commission Certification ¶ 5b. The Commission did not approve OGC's recommendations to find reason to believe that the Committee violated 52 U.S.C. § 30104(b) by failing to disclose the source of loans Meluskey made to his Committee, and to take no action against the media entities that broadcasted Meluskey's show—Salem Media Group, Inc., Prescott Valley Broadcasting Co., Inc., and Premier Radio Stations, LLC—pending the results of our investigation. *Id.* ¶¶ 1, 3. The Commission voted to close the file as to each of the media entities. *Id.* ¶ 6.

1 (2) the amount of the contributions to the Committee resulting from the radio show; and (3) the  
2 number of shows that should have, but did not, include required disclaimers.<sup>3</sup>

3 The results of our investigation are detailed below, along with our recommendation to  
4 proceed to pre-probable cause conciliation with Respondents.

### 5 III. SUMMARY OF INVESTIGATION

6 During the investigation we reviewed episodes of "The Alex Meluskey Show" that aired  
7 from June 6, 2015 through July 30, 2016, which covers all but the first four months of  
8 Meluskey's campaign.<sup>4</sup> This review revealed that Meluskey began hosting a weekly, one-hour  
9 radio show known as "Fair Tax for All Radio" in August 2013.<sup>5</sup> When he became a candidate in  
10 February 2015, the show was already airing on KKNT in Phoenix, Arizona.<sup>6</sup> On June 6, 2015, a  
11 second radio station, KFNX, began broadcasting the show also in the Phoenix area,<sup>7</sup> and the  
12 show was renamed, "The Alex Meluskey Show."<sup>8</sup> During the June 6, 2015, broadcast, Meluskey  
13 explained that he renamed the show from "Fair Tax for All Radio" because he was going to

<sup>3</sup> Commission Certification ¶ 5d; First General Counsel's Rpt. at 21.

<sup>4</sup> Recordings of the radio shows that aired from May 2016 to the end of Meluskey's campaign were publicly available via podcast at the pre-RTB stage, and Respondents provided recordings of the show from June 6, 2015 through May 28, 2016. *See* First General Counsel's Rpt. at 15-16, 18-19; Letter from Trevor Stanley, Attorney for Respondents, to Shanna Reulbach, Attorney, FEC, at 1 (Mar. 9, 2018). We were unable to review the content of the broadcasts that aired prior to June 6, 2015. Apparently Meluskey did not maintain his own copies of these particular broadcasts and the online media and audio platform SoundCloud that maintained recordings of the show, had already deleted episodes that aired during this time period. *See* Email from Trevor Stanley, Attorney for Respondents, to Jonathan Peterson, Attorney, FEC (Aug. 30, 2018) (attaching email from SoundCloud Trust & Safety Team to Meluskey indicating that the files were deleted).

<sup>5</sup> *See* Letter from Trevor Stanley, Attorney for Respondents, to Shanna Reulbach, Attorney, FEC, at 2-3 (Mar. 9, 2018); *see also* Factual & Legal Analysis at 6.

<sup>6</sup> *See* Salem Media Group, Inc. Resp. at 2, Ex. 1; KKNT's AM Broadcast License Renewal Authorization, available at <https://publicfiles.fcc.gov/api/service/am/authorization/1556655.pdf>.

<sup>7</sup> *See* KFNX's Station Info, <http://www.1100kfnx.com/index.php?/aboutus/>.

<sup>8</sup> *See* Premier Radio Stations, LLC Resp., Ex. 1; *The Alex Meluskey Show* (June 6, 2015 episode at minute 1:50-55).

1 broaden the discussion beyond issues related to the “fair tax,” to include state, national, and  
2 international issues that concerned residents of Arizona since he had “moved along to campaign-  
3 related issues.”<sup>9</sup> In May 2016, a third radio station, KQNA, began running the show in Prescott  
4 Valley, Arizona.<sup>10</sup> Meluskey suspended his campaign on July 31, 2016, about a month before  
5 the primary election.<sup>11</sup> He continued to host the radio show.<sup>12</sup>

6 The investigation confirmed that Meluskey used his radio show to discuss his campaign,  
7 expressly advocate his election and the defeat of his opponent, Senator John McCain, and solicit  
8 contributions without including the required disclaimers. Review of the recordings reveals that  
9 Meluskey referenced his candidacy for U.S. Senate on virtually every broadcast of the show that  
10 he hosted from June 6, 2015, through June 25, 2016,<sup>13</sup> describing himself frequently as the  
11 “conservative republican” running to “retire” his primary opponent, John McCain.<sup>14</sup>

12 After the June 25 episode, Craig Bergman, Meluskey’s campaign manager, took over the show  
13 and continued to promote Meluskey’s campaign through July 30, 2016.<sup>15</sup> In addition, Meluskey  
14 frequently discussed his positions on issues concerning veterans, taxation, immigration, trade,

<sup>9</sup> See *The Alex Meluskey Show* (June 6, 2015 episode at minute 1:20-1:55).

<sup>10</sup> See Letter from Trevor Stanley, Attorney for Respondents, to Shanna Reulbach, Attorney, FEC, at 2 (Mar. 9, 2018); KQNA’s AM Broadcast Station License, [http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter\\_exh.cgi?import\\_letter\\_id=75612](http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=75612).

<sup>11</sup> Alexander Meluskey Decl. ¶ 4 (Aug. 26, 2016); Factual & Legal Analysis at 2.

<sup>12</sup> Alexander Meluskey Decl. ¶ 17.

<sup>13</sup> See generally, *The Alex Meluskey Show* (June 6, 13, 20, & 27, 2015 episodes; July 4, 11, & 18, 2015 episodes; Aug. 1, 8, 15, 22, & 29, 2015 episodes; Sept. 5 & 26, 2015 episodes; Oct. 2, 10, 17, 24, & 31, 2015 episodes; Nov. 7, 14, 21, & 28, 2015 episodes; Dec. 5, 12, 19, & 26, 2015 episodes; Jan. 2, 9, 16, 23, & 30, 2016 episodes; Feb. 6, 13, 20, & 27, 2016 episodes; Mar. 5, 12, 19, & 26, 2016 episodes; Apr. 9, 16, 23, & 30, 2016 episodes; May 7, 14, 21, & 28, 2016 episodes; June 18 & 25, 2016 episodes).

<sup>14</sup> See, e.g., *id.* (June 6, 2015 episode at minute 1:07; July 11, 2015 episode at minute 1:05; Jan. 16, 2016 episode at minute 0:54 of third segment; Mar. 19, 2016 episode at minute 1:00 of first segment; June 11, 2016 episode at minute 28:27).

<sup>15</sup> See generally *id.* (July 2, 9, 16, & 23, 2016 episodes); see also Factual & Legal Analysis at 7, 10.

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1 foreign relations, national defense, states' rights, and healthcare, among others, and he regularly  
2 criticized John McCain's positions on these and other issues.<sup>16</sup> Similarly, Meluskey often told  
3 listeners to go to his website for more information about his campaign, upcoming events, and to  
4 sign up as volunteers.<sup>17</sup>

5 Further, Meluskey solicited contributions to his campaign, beginning as early as June 13,  
6 2015, when he directed people to his website and told them to contribute to the campaign "if  
7 [they] s[aw] fit."<sup>18</sup> He continued soliciting contributions throughout the primary election season,  
8 for example, by telling listeners to "donate money,"<sup>19</sup> "contribute to the campaign"<sup>20</sup> because it  
9 "can always use money to defeat John McCain,"<sup>21</sup> he "would love [their] support in any way,  
10 shape or form,"<sup>22</sup> "continue to support" and make "donations" on the website,<sup>23</sup> and "throw  
11 [him] \$5.00."<sup>24</sup> In addition, Meluskey and Bergman expressly advocated Meluskey's election  
12 and the defeat of Senator McCain. For instance, Meluskey told listeners that the campaign

<sup>16</sup> See, e.g., *id.* (June 20, 2015 episode at minutes 1:02, 5:29, 6:26; July 11, 2015 episode at minutes 6:00-7:20, 28:38-31:00; Sept. 26, 2015 episode at minute 39:50; Oct. 17, 2015 episode at minutes 0:23-1:40 of third segment; Nov. 7, 2015 episode at minute 0:26 of third segment; Dec. 12, 2015 episode at minute 0:20 of third segment; Jan. 2, 2016 episode at minute 0:18-3:00 of second segment; Apr. 16, 2016 episode at minute 14:00 of fourth segment; May 14, 2016 episode at minutes 3:23-4:12 of fourth segment, May 21, 2016 episode at minutes 6:35-8:45 of fourth segment).

<sup>17</sup> See, e.g., *id.* (June 27, 2015 episode at minute 41:47; July 4, 2015 episode at minute 28:31; July 11, 2015 episode at minute 7:40; Aug. 8, 2015 episode at minute 42:15; Sept. 26, 2015 episode at minutes 25:15-26:15; Nov. 21, 2015 episode at minutes 3:14-4:02 of third segment & 12:32-13:37 of fourth segment; Jan. 16, 2016 episode at minutes 0:30-1:00 of second segment; Mar. 5, 2016 episode at minute 0:20 of third segment).

<sup>18</sup> *Id.* (June 13, 2015 episode at minute 4:07).

<sup>19</sup> *Id.* (July 11, 2015 episode at minute 8:07).

<sup>20</sup> *Id.* (Mar. 19, 2016 episode at minute 2:17 of first segment).

<sup>21</sup> *Id.* (Oct. 10, 2015 episode at minute 14:08 of fourth segment).

<sup>22</sup> *Id.* (Nov. 14, 2015 episode at minute 3:26 of first segment).

<sup>23</sup> *Id.* (Jan. 30, 2016 episode at minutes 13:19-13:36 of fourth segment).

<sup>24</sup> *Id.* (May 7, 2016 episode at minute 8:40 of second segment).

1 needed "votes,"<sup>25</sup> they "need to go out" and vote for him,<sup>26</sup> and Bergman told listeners to "vote  
2 for [his] friend Alex."<sup>27</sup> In total, at least 80 broadcasts of "The Alex Meluskey Show" that aired  
3 during Meluskey's candidacy contained solicitations of contributions to his campaign and  
4 statements advocating his election.<sup>28</sup> None of these shows contained disclaimers.

5 With regard to payments for the radio show, the investigation revealed that Virtuous  
6 Communications, LLC ("Virtuous Communications") paid for the broadcasts. Virtuous  
7 Communications' articles of organization and an Employer Identification Number form issued  
8 by the IRS show that it is a single member LLC and Meluskey is its sole member.<sup>29</sup> Further,  
9 Respondents confirmed that Virtuous Communications files its taxes as an LLC, not a  
10 corporation.<sup>30</sup> As reflected in the chart below, Virtuous Communications paid a total of  
11 \$17,935.29 from February 2015 through July 2016, to air the show on the three stations.<sup>31</sup>

Station	Dates Show Aired	Amount Paid
KKNT	February 7, 2015-July 30, 2016	\$8,630
KFNX	June 6, 2015-July 30, 2016	\$5,633.29
KQNA	May 28, 2016-July 30, 2016	\$3,672
		<b>\$17,935.29</b>

<sup>25</sup> *Id.* (Feb. 13, 2016 episode at minute 2:00).

<sup>26</sup> *Id.* (June 25, 2016 episode at minute 10:36); *see also* Factual & Legal Analysis at 10-11.

<sup>27</sup> *Id.* (July 2, 2016 episode at minute 6:11); *see also* Factual & Legal Analysis at 10-11.

<sup>28</sup> *See, e.g., id.* (June 13 & 27, 2015 episodes; July 4, 11, & 18, 2015 episodes; Aug. 1, 8, & 22, 2015 episodes; Oct. 2, 10, & 31, 2015 episodes; Nov. 14 & 21, 2015 episodes; Dec. 5, 19, & 26, 2015 episodes; Jan. 16, 23, & 30, 2016 episodes; Feb. 13 & 20, 2016 episodes; Apr. 9, 16, & 23, 2016 episodes; May 7, 14, 21, & 28, 2016 episodes; June 4, 11, 18, & 25, 2016 episodes; July 2 & 16, 2016 episodes).

<sup>29</sup> *See* Virtuous Communications, CP 575 G Notice from IRS (Jan. 19, 2015); Virtuous Communications, Articles of Organization, Az. Corp. Comm'n (Jan. 21, 2015), <http://corporations.images.azcc.gov/04956008.pdf>; *see also* Letter from Az. Corp. Comm'n to Meluskey (Mar. 27, 2015) (approving articles of organization).

<sup>30</sup> Email from Trevor Stanley, Attorney for Respondents, to Jonathan Peterson, Attorney, FEC (Oct. 16, 2018).

<sup>31</sup> *See* Transaction Details for Virtuous Communications & Alexander Meluskey, Wells Fargo (May 20, 2015 - Aug. 18, 2016).

1 **IV. LEGAL ANALYSIS**

2 The Federal Election Campaign Act of 1971, as amended (the "Act"), defines  
3 "contribution" and "expenditure" to include any gift of money or "anything of value" for the  
4 purpose of influencing a federal election.<sup>32</sup> "Anything of value" includes all in-kind  
5 contributions.<sup>33</sup> Candidate committees must disclose the identity of any person who makes  
6 contributions aggregating in excess of \$200 within an election cycle.<sup>34</sup> Corporations are  
7 prohibited from making contributions to a candidate for Federal office.<sup>35</sup>

8 For the purpose of contribution source limitations, a limited liability company ("LLC") is  
9 treated as a corporation if it has publicly traded shares or if it has elected to be treated as a  
10 corporation with the Internal Revenue Service ("IRS").<sup>36</sup> Contributions from single member  
11 LLCs that do not elect to be treated as a corporation "shall be attributed only to that single  
12 member" and subject to the contribution limits of that sole member.<sup>37</sup> Commission regulations  
13 permit a candidate to use personal funds to make unlimited contributions to his or her  
14 campaign.<sup>38</sup>

15 The Commission has previously explained that public communications that are financed  
16 and controlled by a candidate and contain solicitations of contributions to the candidate's  
17 campaign or expressly advocates the election or defeat of any candidate constitute in-kind

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<sup>32</sup> 52 U.S.C. § 30101(8)(A)(i), (9)(A)(i).

<sup>33</sup> 11 C.F.R. §§ 100.52(d)(1), 100.111(e)(1).

<sup>34</sup> 52 U.S.C. § 30104(b)(3)(A).

<sup>35</sup> *Id.* § 30118(a); 11 C.F.R. § 114.2(b).

<sup>36</sup> 11 C.F.R. § 110.1(g)(3).

<sup>37</sup> *Id.* § 110.1(g)(4); *see also* Advisory Opinion ("AO") 2009-02 at 3 (True Patriot Network, LLC).

<sup>38</sup> *See* 11 C.F.R. § 110.10; *see also* AO 1988-07 (Bakal); AO 1990-09 (Mueller).

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1 contributions to that candidate because they are made for the purpose of influencing a federal  
2 election.<sup>39</sup> Even in the absence of solicitations or express advocacy, “the financing of  
3 communications to the general public which are funded and controlled by a candidate and  
4 mention or discuss candidates are presumed to be made with the purpose of influencing a federal  
5 election.”<sup>40</sup>

6 In addition, whenever a person airs a public communication that solicits contributions or  
7 expressly advocates the election or defeat of a clearly identified candidate, that person must  
8 include a disclaimer in the communication, with specific language set out in the regulations.<sup>41</sup>  
9 Commission regulations define “solicit” as “to ask, request, or recommend, explicitly or  
10 implicitly, that another person make a contribution.”<sup>42</sup> The regulations also provide that a  
11 “solicitation” is a “communication that, construed as reasonably understood in the context in  
12 which it is made, contains a clear message asking, requesting, or recommending that another  
13 person make a contribution.”<sup>43</sup> A communication “expressly advocates” the election or defeat of  
14 a clearly identified candidate when, among other things, it contains words that “in context can  
15 have no other reasonable meaning than to urge the election or defeat of one or more clearly  
16 identified candidate(s),” or uses phrases like “vote for the President,” “vote against Old

<sup>39</sup> See, e.g., Factual & Legal Analysis at 9-11, 9 & n.8, MUR 5297 (Wolfe); AO 1994-15 (Byrne); AO 1990-05 (Mueller); AO 1988-22 (San Joaquin Republicans).

<sup>40</sup> Factual & Legal Analysis at 12, MUR 5297 (Wolfe); see AO 1992-06 (Duke) (noting that the “absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is ‘campaign related’”); see also AO 1990-09 (Mueller); AO 1990-05 (Mueller).

<sup>41</sup> 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(2)-(3), (b), (c). The term “public communication” includes communications “by means of any broadcast.” 52 U.S.C. § 30101(22). A candidate is “clearly identified” when the communication includes the name or a photograph or drawing of the candidate or “the identity of the candidate is apparent by unambiguous reference.” *Id.* § 30101(18).

<sup>42</sup> 11 C.F.R. § 300.2(m).

<sup>43</sup> *Id.*

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1 Hickory,” and “reject the incumbent.”<sup>44</sup> In addition, a communication contains express  
2 advocacy if, “[w]hen taken as a whole and with limited reference to external events,” it “could  
3 only be interpreted by a reasonable person as containing advocacy of the election or defeat of  
4 one or more clearly identified candidate(s),” because it contains an “electoral portion” that is  
5 “unmistakable, unambiguous, and suggestive of only one meaning” and “[r]easonable minds  
6 could not differ as to whether it encourages actions to elect or defeat one or more clearly  
7 identified candidate(s) or encourages some other kind of action.”<sup>45</sup>

8 **A. The Committee Received Unreported In-Kind Contributions**

9 The investigation in this matter established that Meluskey used his single member LLC,  
10 Virtuous Communications, to pay for public communications that discussed his campaign,  
11 expressly advocated his election to the U.S. Senate, and solicited contributions for the  
12 Committee. Specifically, 128 broadcasts of “The Alex Meluskey Show” ran across multiple  
13 radio stations in Arizona from June 2015 through July 2016. In these broadcasts Meluskey  
14 discussed his candidacy, made references to his opponent, Senator McCain, and discussed his  
15 positions on issues in the campaign as well as his campaign activities.<sup>46</sup> Further, at least 80 of  
16 the 128 broadcasts contained solicitations of contributions to Meluskey’s campaign and  
17 statements of express advocacy.<sup>47</sup> Meluskey told his listeners to “donate money,”<sup>48</sup> “contribute

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<sup>44</sup> *Id.* § 100.22(a).

<sup>45</sup> *Id.* § 100.22(b).

<sup>46</sup> *See supra* notes 13-17.

<sup>47</sup> *See supra* note 28.

<sup>48</sup> *The Alex Meluskey Show* (July 11, 2015 episode at minute 8:07).

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1 to [the] campaign”<sup>49</sup> because it “can always use money to defeat John McCain,”<sup>50</sup> make  
2 “donations” on the website,”<sup>51</sup> “throw [him] \$5.00,”<sup>52</sup> and that they “need to go out” and vote for  
3 him, “the one candidate that . . . can actually win in November.”<sup>53</sup> Meluskey’s campaign  
4 manager also asked listeners to “vote for [his] friend Alex” and told them that the person they  
5 “want to vote for is the real, true, proven conservative, Alex Meluskey.”<sup>54</sup>

6 Respondents argue that Meluskey aired the program solely to fulfill his “desire to bring  
7 his commentary on political issues and current events” and not to influence his campaign.<sup>55</sup> To  
8 support this argument they note that he aired the show for nearly two years prior to his candidacy  
9 and after the suspension of this campaign.<sup>56</sup> This argument is unpersuasive because it is not the  
10 overall purpose of Meluskey’s creating and continuing with the show that is material to the  
11 conclusion here; rather, it is the specific content of the broadcasts aired while he was a candidate  
12 that supports the conclusion that he used the show, at least in part, to influence the election  
13 during his candidacy. By broadcasting the show to potential supporters throughout Arizona and  
14 repeatedly referencing his candidacy and mentioning his opponent on each broadcast, expressly  
15 advocating his election and the defeat of his opponent, and soliciting funds for his campaign,  
16 Meluskey used the show to influence the election. Because each episode of the “The Alex

<sup>49</sup> *Id.* (Mar. 19, 2016 episode at minute 2:17 of first segment).

<sup>50</sup> *Id.* (Oct. 10, 2015 episode at minute 14:08 of fourth segment).

<sup>51</sup> *Id.* (Jan. 30, 2016 episode at minutes 13:19-13:36 of fourth segment).

<sup>52</sup> *Id.* (May 7, 2016 episode at minute 8:40 of second segment).

<sup>53</sup> *Id.* (June 25, 2016 episode at minute 10:36); *see also* Factual & Legal Analysis at 10.

<sup>54</sup> *The Alex Meluskey Show* (July 16, 2016 episode at minute 13:58); Factual & Legal Analysis at 10-11.

<sup>55</sup> *See* Letter from Trevor Stanley, Attorney for Respondents, to Shanna Reulbach, Attorney, FEC, at 3 (Mar. 9, 2018).

<sup>56</sup> *Id.*

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1 Meluskey Show” we reviewed contains “statements, comments, and references regarding clearly  
2 identified candidates,” we conclude that all 128 broadcasts of the show from June 6, 2015  
3 through July 30, 2016, included campaign-related content and was therefore used for the purpose  
4 of influencing a federal election.<sup>57</sup> Accordingly, any money spent on airing the show was a  
5 contribution to the Committee, which the Committee was obligated to disclose.<sup>58</sup>

6 Because Virtuous Communications paid to broadcast the show and it is a single-member  
7 LLC that did not elect tax treatment as a corporation, the contribution from Virtuous  
8 Communications is attributed to its sole member, Meluskey.<sup>59</sup> The in-kind contributions from  
9 Meluskey were permissible because Meluskey is permitted to use his personal funds to make  
10 unlimited contributions to his campaign, but the Committee was required to disclose those  
11 contributions and it did not do so.<sup>60</sup> Accordingly, the investigation confirmed that the  
12 Committee violated 52 U.S.C. § 30104(b) because Virtuous Communications’ payments to air  
13 the radio show from June 2015 through July 2016 were in-kind contributions to the Committee  
14 that the Committee failed to disclose.

15 **B. “The Alex Meluskey Show” Failed to Include Required Disclaimers**

16 Although the expenses incurred to fund the radio show from June 2015 through July 2016  
17 constitute in-kind contributions to Meluskey’s campaign, not all of these shows that aired during  
18 this period required disclaimers because Meluskey did not solicit contributions or engage in  
19 express advocacy on all these shows. A review of the recordings reveals that at least 80

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<sup>57</sup> See Factual & Legal Analysis at 10-13, MUR 5297 (Wolfe).

<sup>58</sup> See AO 1990-09 (Mueller).

<sup>59</sup> 11 C.F.R. § 110.1(g)(4).

<sup>60</sup> See 11 C.F.R. § 110.10; Factual & Legal Analysis at 11-12.

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1 broadcasts of the show contained solicitations or express advocacy.<sup>61</sup> Accordingly, the  
2 investigation confirmed that the Committee violated 52 U.S.C. § 30120(a) by failing to include  
3 required disclaimers on at least 80 broadcasts of the show.

4 **V. CONCILIATION**

5 We recommend that the Commission enter into joint pre-probable cause conciliation with  
6 Meluskey and the Committee to attempt to settle the violations resulting from the late Statement  
7 of Candidacy, the unreported in-kind contributions, and the failure to include disclaimers on at  
8 least 80 radio broadcasts.<sup>62</sup>

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<sup>61</sup> See *supra* note 28.

<sup>62</sup> See *supra* Section II.

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1 **VI. RECOMMENDATIONS**

- 2 1. Enter into conciliation with Alexander Meluskey and Meluskey for U.S. Senate,  
3 Inc. and Julianne Ryan in her official capacity as treasurer prior to a finding of  
4 probable cause to believe;  
5  
6 2. Approve the attached Conciliation Agreement; and  
7  
8 3. Approve the appropriate letter.

9 Lisa J. Stevenson  
10 Acting General Counsel

11  
12  
13 2/11/19  
14 Date

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